

## REMARKS

Claims 1-21 and 23 were pending in this Application as of the Office Action of January 7, 2010, with claims 11-20 having been previously withdrawn. Claim 1 is amended with this Response. Claim 23 is cancelled.

### Interview Summary

Applicant respectfully thanks Examiner's Gwartney and Hendricks for granting and participating in an interview with Applicant's representation on January 27, 2010. While no agreement regarding claim amendment was reached, the above amendments to claim 1 were discussed in a manner that should expedite prosecution.

### Rejections under 35 U.S.C. §112, first paragraph

Claim 23 is has been rejected under 35 U.S.C. §112, first paragraph as allegedly failing to comply with the written description requirement. In response, Applicant respectfully cancels claim 23.

### Rejections under 35 U.S.C. §103(a)

Claims 1-9 and 21 (claim 23 having been cancelled) have been rejected under 35 U.S.C. §103(a) as being obvious over United States Patent No. 6,005,073 to Hultin ("Hultin" hereinafter) in view of United States Patent No. 5,436,024 to Rogols ("Rogols" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

Applicant's claim 1 has been amended to recite *inter alia*,

"adjusting pH of said water to maintain said pulp at substantially neutral pH throughout the process."

Neither Hultin nor Rogols, taken alone or in combination, teach adjusting the pH of water to maintain the pulp at a substantially neutral pH throughout the manufacturing process. Instead, referring to column 5, lines 1-37, Hultin teaches mixing the protein with an aqueous liquid at a pH below about 3.5 to attain a low pH protein solution. This low pH protein solution is obviously contrary to the neutral pH recited in Applicant's amended claims. As Rogols does not teach washing of pulp with water at all (and is not used as such by the Examiner), Rogols does not remedy this deficiency of Hultin.

With reference to the Examiner's allegation at page 10 of the Office Action that "there is nothing in the claims to limit *subsequent steps* wherein the pH is adjusted to a pH below 3.5," Applicant respectfully asserts that amending claim 1 to recite maintenance of a neutral pH "throughout the process" does limit the claims to water that includes a neutral pH in *subsequent steps*. In our opinion, antecedent basis for this amendment can be found at least at page 15, lines 21-24 of the Specification.

In addition, Applicant's claim 1 has further been amended to recite *inter alia*,

"washing said initial pulp to obtain a washed pulp containing a residual fraction of lipids and sarcoplasmic proteins comprised between 1.2 and 3% of the weight of the pulp."

Neither Hultin nor Rogols, taken alone or in combination, teach a range that overlaps with washed pulp containing a residual fraction of lipids and sarcoplasmic proteins comprised between 1.2 and 3% of the weight of the pulp. On the contrary, Holten teaches a range between .12 and .14%, and Rogols does not teach any range at all (and is not used as such by the Examiner). Applicant respectfully notes that clear basis for criticality of this .2 and 3% percentage is provided at page 17, line 23 of the Specification.

For at least the above reasons, Applicant respectfully asserts that the proposed combination of

Hultin and Rogols does not teach every element of Applicant's claims. Accordingly, Applicant respectfully submits that *prima facie* obviousness does not exist regarding claims 1-9 and 21 with respect to the proposed combination of Hilton and Rogols.

Claim 10 has also been rejected under 35 U.S.C. §103(a) as being obvious over Hultin in view of Rogols and WO 01/62888 to Shah ("Shah" hereinafter). Applicants respectfully traverse this rejection.

Claim 10 depends from claim 1. Thus, for at least the reasons set forth above, Applicants respectfully submit that *prima facie* obviousness does not exist regarding claim 10 with respect to the proposed combination of Hilton and Rogols. As Shah does not remedy the deficiencies of the proposed combination of Hultin and Rogols, Applicants respectfully submit that *prima facie* obviousness does not exist regarding claim 10 with respect to the proposed combination of Rogols, Hilton, and Shah.

Conclusion

Applicants believe that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicants hereby petition for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact Applicants' attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,  
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